

**IN THE UNITED STATES DISCTRRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JOHN GRAVINESE	:	CIVIL ACTION
7125 Valley Avenue	:	
Philadelphia, PA 19128	:	
Plaintiff,	:	NO.: _____
v.	:	
	:	JURY TRIAL DEMANDED
PREMIER DENTAL PRODUCTS	:	
COMPANY	:	
1710 Romano Drive	:	
Plymouth Meeting, PA 19462	:	
Defendant.	:	

CIVIL ACTION COMPLAINT

John Gravinese (*hereinafter* referred to as “Plaintiff,” unless indicated otherwise) by and through his undersigned counsel, hereby avers as follows:

INTRODUCTION

1. Plaintiff has initiated this action to redress violations by Premier Dental Products Company (*hereinafter* referred to as “Defendant”) of the Age Discrimination in Employment Act (“ADEA” – 29 U.S.C. §§ 621 *et seq.*) and the Pennsylvania Human Relations Act (“PHRA”).¹ As a direct consequence of Defendant’s unlawful actions, Plaintiff seeks damages as set forth herein.

¹ Plaintiff’s claims under the PHRA are referenced herein for notice purposes. He is required to wait 1 full year before initiating a lawsuit from date of dual-filing with the EEOC. Plaintiff is however filing his lawsuit in advance of same because he was issued his Right to Sue Letter from the EEOC and must initiate his lawsuit within 90 days from receipt of same. Plaintiff’s PHRA claims however will mirror identically his federal claims under the ADEA.

JURISDICTION AND VENUE

2. This Court has original subject matter jurisdiction over the instant action pursuant to 28 U.S.C. §§ 1331 and 1333(a)(4) because it arises under the laws of the United States and seeks redress for violations of federal laws.

3. This Court may properly assert personal jurisdiction over Defendant because its contacts with this state and this judicial district are sufficient for the exercise of jurisdiction over Defendant to comply with traditional notions of fair play and substantial justice, satisfying the standard set forth by the United States Supreme Court in *Int'l Shoe Co. v. Washington*, 326 U.S. 310 (1945), and its progeny.

4. Pursuant to 28 U.S.C. § 1331(b)(1) and (b)(2), venue is properly laid in this district because Defendant is deemed to reside where it is subjected to personal jurisdiction, rendering Defendant a resident of the Eastern District of Pennsylvania.

5. Plaintiff is proceeding herein under the ADEA after properly exhausting all administrative remedies with respect to such claims by timely filing a Charge of Discrimination with the Equal Employment Opportunity Commission (“EEOC”) and by filing the instant lawsuit within 90 days of receipt of a right-to-sue letter.

PARTIES

6. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

7. Plaintiff is an adult individual with an address as set forth in the caption.

8. Premier Dental Products Company is a manufacturer and distributor of dental and medical products and supplies with headquarters at the address set forth in the above caption. Defendant distributes products to national and international markets. Plaintiff was hired through and worked at Defendant's above-captioned address.

9. At all relevant times herein, Defendant acted by and through its agents, servants and employees, each of whom acted at all times relevant herein in the course and scope of their employment with and for the Defendants.

FACTUAL BACKGROUND

10. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

11. Plaintiff is a 70-year-old male.

12. Plaintiff worked for Defendant approximately June 1, 2007 before his unlawful termination (as discussed *infra*) on May 1, 2020.

13. At all times during his employment with Defendant, Plaintiff worked in Defendant's warehouse at the above-captioned address.

14. Moreover, throughout his employment with Defendant, Plaintiff was a dedicated and hard-working employee who performed his job extremely well.

15. Plaintiff had performed all roles within his department during his employment with Defendant and he had a very comprehensive knowledge of Defendant's operations and processes. Plaintiff was a very versatile employee, had a substantial amount of cross-training and had the skills and knowledge necessary to perform any role/position within Defendant's warehouse effectively and better than many other employees.

16. Plaintiff received consistently positive performance evaluations during his entire period of employment with Defendant. In fact, in his January 2020 performance evaluation, Plaintiff was given the highest rating of "outstanding" in all areas of his job functions and performance. Furthermore, on that same review, Plaintiff's managers noted that Plaintiff's institutional knowledge of warehouse processes was an asset to Defendant and that Plaintiff's ability to effectively work with all with all departments was beneficial to Defendant's entire

operation. That same 2020 evaluation further noted that Plaintiff was a positive influence for other members of the warehouse and encouraged Plaintiff to continue to share his skill with others in the warehouse.

17. At all relevant times, Plaintiff was primarily supervised by Mark Williams (Warehouse Manager) and George Robbins (functioning as a lead).

18. On average, there were typically 10-12 individuals total in Plaintiff's department during his employment with Defendant.

19. Due to the COVID-19 pandemic, employees, including Plaintiff, were subject to a temporary furlough. Plaintiff and others in his department (the Warehouse) ceased working effective as of March, 2020 (for a temporary closure of facilities).

20. On May 1, 2020, Plaintiff was notified by Defendant that he was terminated due to his position allegedly being eliminated.

21. However, Defendant retained/brought back approximately 8 employees who were substantially younger than him by 10-50 years despite the fact that Plaintiff (1) was a better performer; (2) more senior (as to longer employment); and (3) even trained people that were retained (and was trusted to train people overall in the department).

22. Moreover, upon information and belief, the work that Plaintiff performed before his alleged job elimination has not slowed down and is now being performed by younger, less experienced individuals.

23. Plaintiff's termination was completely discriminatory based on age. For example, one person was hired from being a casual helper while in college (as of reopening) and younger people who couldn't do all aspects of the job in the warehouse were kept (unlike Plaintiff).

24. Additionally, Defendant intentionally terminated the 3 oldest people in the department (ages 63, 65, and 70). Other younger people functionally were used to perform the

other older (terminated) employees' roles (who could have been retained as they were long-term, versatile employees like Plaintiff). No neutral criteria could have been applied for Plaintiff's termination other than discriminatory criteria and Plaintiff believes that a primary criterion for his termination was age.

25. Plaintiff was treated disparately with respect to job retention, and termination contrary to individuals substantially younger than him, and, without having been the subject of any progressive discipline during his tenure with Defendant and after years of excellent performance, Plaintiff was terminated over less senior and less experienced , younger employees that were retained.

26. Plaintiff believes and therefore avers the rationale given for his termination was completely pretextual and that he was really terminated because of his age.

COUNT I
Violation of the Age Discrimination in Employment Act (“ADEA”)
(Age Discrimination)

27. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

28. Throughout his employment with Defendant, Plaintiff was a dedicated and hard-working employee who performed his job extremely well and received consistently positive performance evaluations. Moreover, Plaintiff was a very versatile employee, had a substantial amount of cross-training and had the skills and knowledge necessary to perform any role/position within Defendant's Wearhouse effectively and better than many other employees.

29. Plaintiff and other older employees were treated disparately with respect to job retention and termination contrary to individuals substantially younger than him.

30. Following a furlough period, Plaintiff was terminated on or about May 1, 2020 by Defendant.

31. However, substantially younger employees with less seniority and significantly less experience were retained over Plaintiff.

32. Upon information and belief, after Plaintiff was terminated, his work for Defendant has been performed by much younger, less experienced individuals who do not possess the level of qualifications and seniority Plaintiff had obtained working with Defendant for over 10 years.

33. Therefore, Plaintiff believes and avers his termination was completely pretextual and that he was really terminated because of his advanced age.

34. These actions as aforesaid constitute unlawful age discrimination under the ADEA.

WHEREFORE, Plaintiff prays that this Court enter an Order providing that:

A. Defendants are to promulgate and adhere to a policy prohibiting discrimination in the future against any employee(s);

B. Defendants are to compensate Plaintiff, reimburse Plaintiff, and make Plaintiff whole for any and all pay and benefits Plaintiff would have received had it not been for Defendants' illegal actions, including but not limited to back pay, front pay, salary pay increases, bonuses, insurance, benefits, training, promotions, reinstatement and seniority;

C. Plaintiff is to be awarded liquidated damages as permitted by applicable law, in an amount believed by the Court or trier of fact to be appropriate to punish Defendants for their willful, deliberate, malicious and outrageous conduct and to deter Defendants or other employers from engaging in such misconduct in the future;

D. Plaintiff is to be accorded other equitable and legal relief as the Court deems just, proper and appropriate (including but not limited to damages for emotional distress, pain, suffering and humiliation); and

E. Plaintiff is to be awarded the costs and expenses of this action and reasonable attorney's fees as provided by applicable federal and state law.

Respectfully submitted,

KARPF, KARPF & CERUTTI, P.C.

By:


Ari R. Karpf, Esq.
3331 Street Road
Two Greenwood Square, Suite 128
Bensalem, PA 19020
(215) 639-0801

Dated: October 20, 2020

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

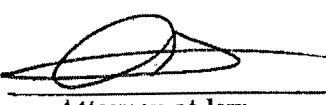
CASE MANAGEMENT TRACK DESIGNATION FORM

John Gravinese v. Premier Dental Products Company	CIVIL ACTION NO.
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In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

10/20/2020		Plaintiff Attorney for
Date	Attorney-at-law	
(215) 639-0801	(215) 639-4970	akarpf@karpf-law.com
Telephone	FAX Number	E-Mail Address

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 7125 Valley Avenue, Philadelphia, PA 19128

Address of Defendant: 1710 Romano Drive, Plymouth Meeting, PA 19462

Place of Accident, Incident or Transaction: Defendant's place of business

RELATED CASE, IF ANY:

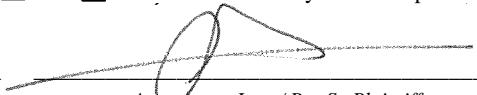
Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when **Yes** is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

I certify that, to my knowledge, the within case is / is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 10/20/2020



Attorney-at-Law / Pro Se Plaintiff

ARK2484 / 91538

Attorney I.D. # (if applicable)

CIVIL: (Place a ✓ in one category only)

A. Federal Question Cases:

- 1. Indemnity Contract, Marine Contract, and All Other Contracts
- 2. FELA
- 3. Jones Act-Personal Injury
- 4. Antitrust
- 5. Patent
- 6. Labor-Management Relations
- 7. Civil Rights
- 8. Habeas Corpus
- 9. Securities Act(s) Cases
- 10. Social Security Review Cases
- 11. All other Federal Question Cases
(Please specify): _____

B. Diversity Jurisdiction Cases:

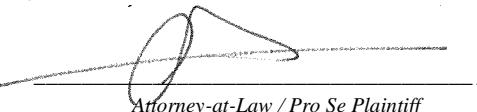
- 1. Insurance Contract and Other Contracts
- 2. Airplane Personal Injury
- 3. Assault, Defamation
- 4. Marine Personal Injury
- 5. Motor Vehicle Personal Injury
- 6. Other Personal Injury (Please specify): _____
- 7. Products Liability
- 8. Products Liability – Asbestos
- 9. All other Diversity Cases
(Please specify): _____

I, Ari R. Karp, counsel of record or pro se plaintiff, do hereby certify:

Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

Relief other than monetary damages is sought.

DATE: 10/20/2020



Attorney-at-Law / Pro Se Plaintiff

ARK2484 / 91538

Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

GRAVINESE, JOHN

(b) County of Residence of First Listed Plaintiff Philadelphia
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Karpf, Karpf & Cerutti, P.C.; 3331 Street Road, Two Greenwood Square, Suite 128, Bensalem, PA 19020; (215) 639-0801; akarpf@karpf-law.com

DEFENDANTS

PREMIER DENTAL PRODUCTS COMPANY

County of Residence of First Listed Defendant Montgomery
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	1	1	Incorporated or Principal Place of Business In This State	4	4
Citizen of Another State	2	2	Incorporated and Principal Place of Business In Another State	5	5
Citizen or Subject of a Foreign Country	3	3	Foreign Nation	6	6

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions](#).

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	' 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	' 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability	PROPERTY RIGHTS	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	' 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	' 330 Federal Employers' Liability	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	' 345 Marine Product Liability	PERSONAL PROPERTY	<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	' 350 Motor Vehicle	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	' 355 Motor Vehicle Product Liability	<input type="checkbox"/> 371 Truth in Lending	SOCIAL SECURITY	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	' 360 Other Personal Injury	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 190 Other Contract	' 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 196 Franchise			<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	Habeas Corpus:		<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 463 Alien Detainee	FEDERAL TAX SUITS	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input checked="" type="checkbox"/> 442 Employment	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 896 Arbitration
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	Other:		<input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 540 Mandamus & Other		
	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 550 Civil Rights		
		<input type="checkbox"/> 555 Prison Condition		
		<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		

V. ORIGIN (Place an "X" in One Box Only)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another District (specify) _____	<input type="checkbox"/> 6 Multidistrict Litigation - Transfer	<input type="checkbox"/> 8 Multidistrict Litigation - Direct File
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Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
ADEA (29USC621)**VI. CAUSE OF ACTION**Brief description of cause:
Violations of ADEA and PA Human Relations Act.**VII. REQUESTED IN COMPLAINT:** CHECK IF THIS IS A CLASS ACTION
UNDER RULE 23, F.R.Cv.P.

DEMAND \$ _____

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE 10/20/2020

SIGNATURE OF ATTORNEY-OF-RECORD

RECEIPT # _____

AMOUNT _____

APPLYING IFFP _____

JUDGE _____

MAG. JUDGE _____

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